

REGULAR MEETING OF THE MISHAWAKA
BOARD OF PUBLIC WORKS AND SAFETY/UTILITY BOARD
May 1, 2012

The regular meeting of the Board of Public Works and Safety/Utility was called to order by Vice President Watson at 10:01 a.m. All members were present except Mr. West. Mr. Prince moved to dispense with the reading of the minutes of April 24, 2012, and accept them as circulated. Mr. Watson seconded; motion carried.

Quote/Bid Openings:

Quotes were opened for one (1) used single drum vibratory roller for the Street Department and are summarized below:

COMPANY

RSC Equipment Rental, South Bend, IN

MODEL: 2006 Ingersol Rand, SD450, 969 hours

BASE BID \$29,350.00

Wakarusa Heavy Equipment, Wakarusa, IN

MODEL: Dynapac CA150D, 950 hours

BASE BID \$46,000.00

MacDonald Machinery, South Bend

MODEL: Option "A" 2008 Dynapac CA134, 1,150 hours

BASE BID \$36,983.00

MODEL: Option "B" 2007 Dynapac CA134, 830 hours

BASE BID \$29,980.00

Mr. Watson indicated these quotes will be taken under consideration by the Street Department.

Bids were opened for Main Street Improvements, Phase VI Ardennes to Day and are summarized below:

CONTRACTOR	BASE BID	ALT. NO. 1	ALT. NO 2	ALT. NO 3	TOTAL BID
HRP Construction, Inc.	\$6,096,877.70	\$50,851.75	\$19,875.50	\$135,215.00	\$6,302,819.95
R & R Excavating, Inc.	\$5,453,595.20	\$56,396.00	\$21,107.50	\$135,215.00	\$5,666,313.70
Rieth-Riley Construction, Inc.	\$5,650,742.81	\$48,377.02	\$15,201.55	\$135,215.00	\$5,849,536.38
Selge Construction Co., Inc.	\$5,162,194.55	\$58,579.80	\$21,609.75	\$135,215.00	\$5,377,599.10
Walsh & Kelly, Inc.	\$5,435,818.53	\$48,163.25	\$23,817.40	\$144,175.00	\$5,651,974.18

Mr. Watson indicated these quotes will be taken under consideration by the City's consultant.

Mayor's Comments:

Mayor Wood was not available for today's meeting.

Department Head Reports:

Fire Chief Dale Freeman announced that the following individuals have successfully completed the written Firefighters Aptitude Examination, the Physical Agility Test administered by the Mishawaka Firefighter Pension Board as well as the medical and psychological testing required for becoming a member of the Mishawaka Fire Department. They are: Kevin L. Cooper, Travis A. Corn, Jason W. Stauffacher, Richard W. Meyers, Chad G. Kinney, and Jared T. Norton. He also recommended that they be appointed for probationary employment effective May 7, 2012. Mr. Prince moved that the above referenced individuals be appointed for probationary employment effective May 7, 2012. Mr. Watson seconded, motion carried. Mr. Watson announced there would be a swearing-in ceremony on Monday, May 7, 2012 at 10:00 a.m. in Council Chambers.

Park Superintendent Terry Zeller submitted a request to remove two (2) trees in the right of way at 612 Indiana Avenue. The trees have been analyzed and recommended for removal by the Park Department Landscaper. Mr. Prince moved to approve as presented. Mr. Watson seconded; motion carried.

Mr. Zeller requested the Board approve a Professional Service Agreement with Lawson-Fisher Associates for engineering services for Eberhart Golf Course pedestrian bridge decking for a lump sum of \$8,750.00. Mr. Prince moved to approve as presented. Mr. Watson seconded; motion carried.

Community Development Director Dave Thomas requested the board authorize the receipt of quotes for the demolition and removal of 913 Grand Boulevard to be opened May 15, 2012. Mr. Prince moved to approve as presented. Mr. Watson seconded; motion carried.

Mr. Thomas requested the Board award the demolition of 909 Grand Boulevard to John Boettcher Sewer and Excavating, the lowest most responsive and responsible quoter, for the base quote of \$4,972.00. Mr. Prince moved to approve as presented. Mr. Watson seconded; motion carried.

Street Commissioner Mike Watson on behalf of Engineering Director Gary West requested the Board extend Curb and Sidewalk Program Construction Contract for 2012 with Selge Construction, originally awarded in 2010, and moved for its approval. Mr. Prince seconded; motion carried.

Mr. Watson requested the Board award the contract for Bennington Drive Extension to John Boettcher Sewer & Excavating, the lowest most responsive and responsible bidder, for the base bid of \$661,720.05 plus Alternate No. 1 of \$67,081.00 for a total award of \$728,801.05, and moved for its approval. Mr. Prince seconded; motion carried.

Mr. Watson presented a Professional Service Agreement with DLZ for construction observation services for Bennington Drive Extension for the not-to-exceed amount of \$35,500.00, and moved for its approval. Mr. Prince seconded; motion carried.

Approval of Claims:

Mr. Prince moved to approve seventeen (17) Claim Dockets for Utilities and Civil City as submitted by City Controller Yvonne Milligan for a total amount of \$13,750,564.30. Mr. Watson seconded; motion carried.

Approval of SRF Pay Applications:

There were no applications to approve.

New Business:

A request was received from the Mishawaka Memorial Day Parade Committee requesting permission to hold the annual Memorial Day Parade on Monday, May 28, 2012. Mr. Watson moved to approve the request from the Mishawaka Memorial Day Parade Committee to hold the parade on May 28, 2012, subject to the same route and any supplemental direction from the Street and/or Engineering departments. Mr. Prince seconded; motion carried.

Open Items:

Results of the hearing for Mishawaka Police Officer Gregory Carr held on Tuesday, April 3, 2012 were read aloud and a copy of said results is attached hereto. Mr. Prince moved to approve the findings and terminate his employment from the Mishawaka Police Department effective May 1, 2012. Mr. Watson seconded; motion carried.

Unfinished Business:

There being no additional business brought before the Board, the meeting was adjourned at 10:34 a.m.

Mike Watson – Vice President of the Board of
Public Works and Safety/Utility Board

Kari Myers – Clerk of the Board of
Public Works and Safety/Utility Board

BOARD OF PUBLIC WORKS AND SAFETY CITY OF MISHAWAKA, INDIANA

IN RE:

DISCIPLINARY MATTER OF CORPORAL GREGORY CARR

FINDINGS OF FACT

The Board of Public Works and Safety of the City of Mishawaka ("Board") makes the following Findings of Fact, Conclusions, and Actions in the matter of the discipline of Gregory Carr ("Officer Carr"), a Corporal on the Mishawaka Police Department:

1. Officer Gregory Carr was hired as a Mishawaka police officer in December of 2008, and has been a member of the department at all times since then..
2. In a March 6, 2012 letter to the Board of Public Works and Safety, Chief of Police Kenneth L. Witkowski ("Chief Witkowski") outlined charges against Officer Carr.
3. Chief Witkowski charged that Officer Carr had wrongfully and knowingly falsified records/time slips to be compensated twice for the same time worked, which constituted a violation of rules, immoral conduct, conduct unbecoming an officer, and another breach of discipline, all in violation of IC 36-8-3-4(b)(2).
4. On March 6th, 2012 the Board of Public Works and Safety notified Officer Carr of the Charge and of his right to request a hearing and his other rights under IC 36-8-3-4(c).
5. Officer Carr through his attorney made a timely request for a hearing.
6. A hearing was set for and was held without objection on April 3, 2012, at which time the Board of Public Works and Safety was presented with evidence and testimony on the Charge from both Chief Witkowski and Officer Carr.

7. It is the practice of the Mishawaka PD that an officer who works overtime may select whether to accept pay or time owed for the overtime. The officer makes this election by filling out a form, which is signed and approved by a supervising officer. The process requires that the officer who works the overtime must fill out the overtime slip in duplicate either using carbon paper or by filling out two (2) or three (3) original slips to be signed by a superior officer.

8. If the time slip is for overtime pay the officer would get the two (2) slips back from the supervisor after he had signed them which verifies that the officer indeed did work the overtime. The officer or his designee would then put one slip in the lock box that is used for the purpose of collecting the overtime slips for the records department for further distribution, and the officer would keep one slip for himself.

9. If the slips were for time owed after the supervisor signed them, the supervisor would keep one slip for the officer's Captain and the officer would put another slip in the lock box. Any time owed slips in the lock box would be sent to the Chief's office to be added to that officer's time owed log kept in the Chief's office. The Captain also maintained a log for each officer from the slip he received from the signing supervisor. The hours on the the Captain's log for all officers were posted in the roll-call room.

10. It is the practice of the Mishawaka PD that an officer may elect to to use the time owed him in lieu of working his regular assigned shift. In that case he receives his regular pay and the hours he is owed are reduced accordingly.

11. In early January, 2012 a yearly audit was performed to reconcile the Captain's time owed records with the time owed records in the Chief's office.

12. It was discovered during this audit that Officer Carr's time owed record in the Chief's office and the Captain's records did not match. The Chief's office showed Officer Carr as being owed 2.5 hours on the books, while the Captain's record showed 92 hours of time owed to Officer Carr.

13. Although the 2 offices should have had the same amount of time owed slips from Officer Carr, there were 17 time owed slips from Officer Carr in the Captain's Office which were not in the Chief's office. Chief Witkowski ordered a further search of records throughout the police department. This search showed there were 13 instances in which the Captain's office had time owed slips from Officer Carr, although other records showed Officer Carr requested and was paid overtime on those occasions. In these 13 instances, which covered time worked between and including March 19, 2011 through December 29, 2011, the time involved ranged from 16 hours in one instance down to to 1.5 hours and totaled 69 hours of compensatory time.

14. On January 19, 2012 the Chief interviewed Officer Carr about the discrepancies and showed him the duplicate time slips for the 13 instances. Officer Carr had no explanation on how this could have happened, although he did admit that on 4 of the 13 duplications, all of the writing and markings on the slips were his with the exception of the supervisor's signature.

15. The yearly audits found no problems or discrepancies of the time owed records during the first two years of of Officer Carr's tenure. Officer Carr had correctly followed the procedures for this time slip system on many, many occasions during his three years on the department.

16. On all 13 incidents, Officer Carr benefited by receiving pay for the time worked and was also being credited with 69 hours of time owed.

17. Officer Carr made no effort to bring the discrepancy in time owed to the attention of his supervisors, although the time owed was posted in the roll-call room and he received pay records showing all the overtime paid.

18. Chief Witkowski testified that there were no other instances of multiple duplications of time owed plus pay for police officers during his tenure as Chief.

19. Officer Carr's numerous correct uses of the time slip system coupled with his admission that on 4 of the occasions he did indeed apply for and received both pay and time owed credit for the same time worked, shows that Officer Carr's receipt of both pay and time owed credit was willful and intentional.

20. An essential part of the duties of a police officer is to give truthful and believable testimony under oath. Proven dishonesty prevents the officer from performing this essential part of his duties and can be used to impeach the officer's testimony.

21. By receiving both pay and time owed credit in these 13 instances, Officer Carr violated the rules of the Mishawaka Police Department contrary to I.C. 36-8-3-4(b)(2)(B).

22. By receiving both pay and time owed credit in these 13 instances, Officer Carr was dishonest and guilty of immoral conduct contrary to I.C. 36-8-3-4(b)(2)(F).

23. By receiving both pay and time owed credit in these 13 instances, Officer Carr was guilty of conduct unbecoming a police officer contrary to I.C. 36-8-3-4(b)(2)(H).

THEREFORE the Board of Public Works and Safety for the City of Mishawaka, having found that Officer Gregory Carr did intentionally try to gain benefit through the falsification of time records, and as a result has violated IC 36-8-3-4(b) (2) including a violation of rules, immoral conduct, and conduct unbecoming an officer, hereby terminates Officer Gregory Carr from the Mishawaka Police Department, effective as of today, May 1, 2012.

Gary West, President




Ronald E. Watson, Vice President



Kenneth B. Prince, Member

ATTEST:



Kari Myers, Clerk of the Board of Public Works & Safety